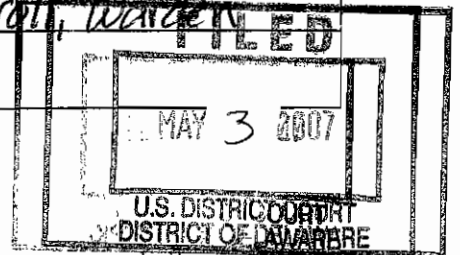


PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

- 07 - 243 -

United States District Court		District <u>For Delaware</u>
Name (under which you were convicted): <u>Kenneth F. Reeder</u>		Docket or Case No.:
Place of Confinement: <u>Delaware Correctional Center</u>		Prisoner No.: <u>253949</u>
Petitioner (include the name under which you were convicted) <u>Kenneth F. Reeder</u>		Respondent (authorized person having custody of petitioner) <u>Thomas Carroll, Warden</u>
The Attorney General of the State of <u>Delaware</u>		

PETITION



- (a) Name and location of court that entered the judgment of conviction you are challenging: Delaware Superior Court, Georgetown, DE. and Delaware Supreme Court, Dover, DE.
(b) Criminal docket or case number (if you know): _____
- (a) Date of the judgment of conviction (if you know): _____
(b) Date of sentencing: Nov. 5, 1999
- Length of sentence: 112 years level 5
- In this case, were you convicted on more than one count or of more than one crime? Yes ☒ No ☐
- Identify all crimes of which you were convicted and sentenced in this case: Burglary 2nd (14 counts), Theft (3 counts), Theft of a Firearm (9 counts), Possession of Burglar's Tools (1 count), Theft (F) (4 counts), Conspiracy 2nd (1 count), Theft (M) (7 counts), Criminal Mischief (M) (11 counts).
- (a) What was your plea? (Check one)

(1) Not guilty <input checked="" type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

 (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? N/A

BD scanned
NO ITP

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: Delaware Supreme Court

(b) Docket or case number (if you know): _____

(c) Result: Affirmed

(d) Date of result (if you know): March 26, 2001

(e) Citation to the case (if you know): _____

(f) Grounds raised: ① Insufficient Probable cause to justify warrantless search & seizure of vehicle, ② There were not Exigent Circumstances to justify warrantless search & seizure, ③ Trial Court erred in modifying the sentence original imposed by the Court on 11-5-99, in that the original sentence imposed was a proper use of the Sentencing Court's discretion.

(g) Did you seek further review by a higher state court? Yes ☒ No ☐

If yes, answer the following:

(1) Name of court: (Same as above) - Del. Supreme Court

(2) Docket or case number (if you know): No. 539, 2001 (Writ of Mandamus)

(3) Result: Dismissed

(4) Date of result (if you know): December 10, 2001

(5) Citation to the case (if you know): Franks v. Delaware, 98 S.Ct. 2674 (1978)

(6) Grounds raised: ① Trial court erred in failing to suppress the evidence obtained from the illegal search & seizure of Reeder's vehicle & the subsequent search of his residence. ② There existed no exigent circumstances to justify warrantless search & seizure of vehicle.

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If yes, answer the following:

(1) Docket or case number (if you know): N/A

(9) (5) - U.S. v. Spetz, 721 F.2d 1457 (1983), U.S. v. Wallach, 935 F.2d 445 (1991), Wongson v. U.S., 83 S.Ct. 407 (1963), Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173 (1959), Keys v. State, 337 A.2d 18 (1975) (Del. Supr.), U.S. v. Williams, 133 F.3d 1048 (1998).

(2) Result: N/A

(3) Date of result (if you know): N/A

(4) Citation to the case (if you know): N/A

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: Delaware Superior Court
 (2) Docket or case number (if you know): 2005 WL 1249041
 (3) Date of filing (if you know): March 20, 2004
 (4) Nature of the proceeding: Rule 61- Post Conviction Relief Motion
 (5) Grounds raised: ① Prosecutorial Misconduct (Prosecutor solicited perjured testimony & relied on it to solidify Probable Cause), ② Ineffective Assistance of Counsel ③ Abuse of Discretion by Trial/Sentencing Judge.

- (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: Affirmed (denied "verbatim" from direct Appeal of
 (8) Date of result (if you know): May 26, 2005 Del. Supreme Court)

- (b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: Delaware Supreme Court
 (2) Docket or case number (if you know): No. 273, 2005
 (3) Date of filing (if you know): December 30, 2005
 (4) Nature of the proceeding: Appeal of Post-conviction Relief (Rule 61)
 (5) Grounds raised: ① Prosecutorial Misconduct (prosecutor aware her primary witness committed Perjury pursuant to Title 11 § 1223 & 1235 (e) Concerning Probable Cause & allowed it to go uncorrected) ② Abuse of Discretion (Trial Court allowed state to rely on out of court statements of a declarant that was never identified, trial Court didn't assist Jury on a question)

never set standard to follow on record as to why it believed one state's witness over the other ③ Ineffective Assistance of Counsel (in Pretrial / Probable cause hearings, trial & direct Appeal).

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: Affirmed

(8) Date of result (if you know): May 3, 2006

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: Delaware Supreme Court

(2) Docket or case number (if you know): No. 372, 2006

(3) Date of filing (if you know): July 13, 2006

(4) Nature of the proceeding: Writ of Mandamus

(5) Grounds raised: ① Asked Del. Supreme Court to Compel inferior Court (Superior Court) to give my person a "Franks / Evidentiary hearing" pursuant to Franks v. Delaware, 48 S.Ct. 2674 (1979), due to the perjury in Pretrial hearings that established probable cause.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: Dismissed

(8) Date of result (if you know): October 4, 2006

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☒ No ☐

(2) Second petition: Yes ☒ No ☐

(3) Third petition: Yes ☒ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

N/A

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: _____

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (b) If you did not exhaust your state remedies on Ground One, explain why: N/A

- (c) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

- (2) If you did not raise this issue in your direct appeal, explain why: Ineffective

Counsel, he raised insufficient probable cause instead of
Perjury by State's primary witness (Detective Conaway) that tainted
Probable cause of warrantless search & seizure.

- (d) Post-Conviction Proceedings:

- (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

- (2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-Conviction Relief Motion (Rule 61)

Name and location of the court where the motion or petition was filed: Delaware Superior Court (Sussex County)

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Delaware Supreme Court

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): Affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/A

GROUND TWO: N/A

(a) **Supporting facts** (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why: N/A

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion for Post-conviction Relief

Name and location of the court where the motion or petition was filed: Del. Supr. Court

Docket or case number (if you know): _____

Date of the court's decision: May, 2005

Result (attach a copy of the court's opinion or order, if available): Denied / Affirmed

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Del. Supr. Court

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: Exhausted totally

GROUND THREE: See memorandum for Habe

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (b) If you did not exhaust your state remedies on Ground Three, explain why: N/A

- (c) **Direct Appeal of Ground Three:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

- (2) If you did not raise this issue in your direct appeal, explain why: N/A

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Rule 61

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: N/A

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

N/A

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

N/A

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

N/A

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

N/A

Date of the court's decision:

N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☐

N/A

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☐

N/A

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

See memorandum for habeas

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

N/A

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

N/A

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Dean A. Betts, Jr. Esquire

(b) At arraignment and plea: Edward C. Gill, Esquire

(c) At trial: Ronald D. Phillips, Jr. (At Suppression hearing also)

(d) At sentencing: Ronald D. Phillips, Jr.

(e) On appeal: Ronald D. Phillips, Jr.

(f) In any post-conviction proceeding: Pro se'

(g) On appeal from any ruling against you in a post-conviction proceeding: Pro se'

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

Page

(c) So, give name and location of court that imposed the other sentence you will serve in the future: N/A

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: N/A

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒ N/A

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.* N/A - see Habeas Corpus

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued)

Therefore, petitioner asks that the Court grant the following relief: Grant evidentiary hearing
or reversal of convictions, ~~the~~ Reverse Suppression, suppress search &
seizure

or any other relief to which petitioner may be entitled.

Henry Reader
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on
4-29-07 (month, date, year).

Executed (signed) on April 29, 2007 (date).

Henry Reader
Signature of Petitioner

*(...continued)

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. _____

N/A

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

* * * * *

Certificate of Service

I, Henry F. Reeder, hereby certify that I have served a true
and correct cop(ies) of the attached: Habeas Corpus
_____ upon the following
parties/person (s):

TO: <u>United States District Court</u>	TO: <u>Dept. of Justice</u>
<u>844 N. King St., Lockbox 18</u>	<u>820 N. French St.</u>
<u>Wilmington, DE 19801</u>	<u>Criminal Division</u>
_____	<u>Wilmington, DE 19801</u>
_____	_____

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 30 day of April, 2007

Henry Reeder

1/M Henny Reader
SBI# 253949 UNIT 22AU-12
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

"LEGAL MAIL"



United States District Court
Clerk of Court
844 N. King St., Lock Box 18
Wilmington, DE
19801



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